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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,240	12/31/2003	Brian D. Zelickson	43154.68.1	5624

7590 12/13/2005

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EXAMINER

PHAM, HUONG Q

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/751,240	Applicant(s) ZELICKSON ET AL.	
	Examiner Huong Q. Pham	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/5/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim 3 is objected to because the phrase " internal motion generator " lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mabuchi (4,513,737).

As for claim 3, Mabuchi teaches every claimed feature of claim 3 including a handheld device comprising internal motion generating structure 20, 21, 17, 19, 3 for imparting desired motion to a distal treatment component 6 at a distal tip 4, 4A (figures 1, 10) thereof, and a distal tip surface 4, 4A (figure 10) having a connection element 30, 32 (figure 10) for connecting the treatment component 6 with the distal tip 4, 4A,

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and an actuatable motion generator 20 and control element; the treatment component 6 having a first portion designed for connection with a motion generating subsystem 3,19,17 of the internal motion generator 20 through the connection element, and a second portion 8,7 having a shaped configuration and a first and second surface, wherein the second portion is configured so that the first surface will contact the skin and is capable of imparting desired motion to the skin for a predetermined length of time and in accordance with a selected program to facilitate rejuvenation of the skin. As for claims 1 and 2, Mabuchi teaches every claimed steps including the steps of : assessing the skin to be rejuvenated; and selecting a proper program for a chosen treatment paddle, which is one of a variety of treatment paddles (figures 21A- 22C) or components selectively attachable to a handheld device; the handheld device having an internal motion mechanism 20, 3, 19, 17, 21 for imparting desired motion to the chosen treatment paddle for a predetermined length of time and in accordance with the selected program, wherein the paddle is chosen so that it is configured to impart mechanical motion to the skin to be rejuvenated so that a tissue generation cascade is initiated or facilitated at the dermis of the skin.

Claims 1-3 are rejected under 35 U.S.C. 102(a) or 102 (e) as being clearly anticipated by Zelickson et al (6,645,184).

It is noted that the patent to Zelickson et al (6,645,184) has different inventor group, and the patent to Zelickson et al teaches every claimed feature and steps of claims 1-3.

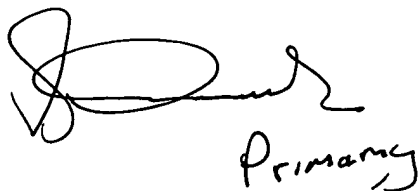
The foreign documents listed on form 1449 (filed on 7/5/2005) have not been considered because the examiner does not have a copy of these documents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 7:15 AM - 3:45 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272 - 4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 7, 2005



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